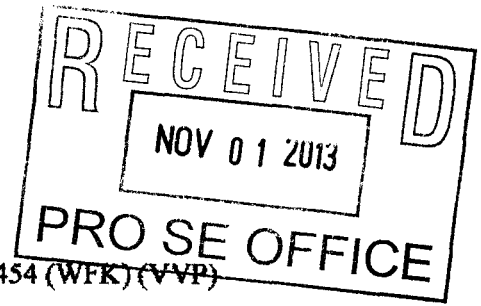


UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK



DEIRDRE C. JOHNSON

Civil Action No.: 12-CV-4454 (WFK) (VVP)

Plaintiff,

PLAINTIFF DEIRDRE C.
JOHNSON'S AMENDED
COMPLAINT

- against -

ANDY FRAIN SERVICES, INC.,

Defendant.

I, Deirdre C. Johnson, am the plaintiff in the above entitled action, and respectfully submit this
Amended Complaint for Employment Discrimination dated November 1st, 2013.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: Patchogue, New York

November 1st, 2013

Signature

Address

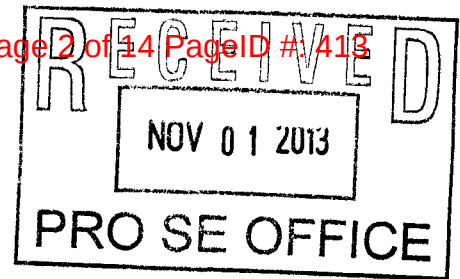
Telephone No.

Deirdre C. Johnson
134 Oak St.
Patchogue, NY 11772-2833
217-510-8309; 516-286-1232

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

Deirdre C. Johnson,

Plaintiff, *pro se*.



1:12cv04454 (WFK)(VVP)
AMENDED COMPLAINT
FOR EMPLOYMENT DISCRIMINATION

-against-

Andy Frain Services, Inc.; Dane Vontobel,
Dane DeSouza; Robert
DeCosta; Edmond Quick;
and, ^{International} Staffing Concepts, Inc. (SCI),

Jury Trial: ☒ Yes ☐ No

(check one)

Defendants.

This action is brought for discrimination in employment pursuant to:

(check only those that apply)

 X

Title VII of the Civil Rights Act of 1964, as codified, 42 U.S.C. §§ 2000e to 2000e-17 (race, color, gender, religion, national origin).

NOTE: In order to bring suit in federal district court under Title VII, you must first obtain a Notice of Right to Sue Letter from the Equal Employment Opportunity Commission.

 X

Age Discrimination in Employment Act of 1967, as codified, 29 U.S.C. §§ 621 - 634.

NOTE: In order to bring suit in federal district court under the Age Discrimination in Employment Act, you must first file a charge with the Equal Employment Opportunity Commission.

 X

42 U.S.C.A. § 1981; Purposes of 1991 Amendment, Section 3 of Pub. L. 102-166 provided that:
"The purposes of this Act [include]" (1) to provide appropriate remedies for intentional discrimination and unlawful harassment in the workplace."

 X

New York State Human Rights Law, N.Y. Exec. Law §§ 290 to 297 (age, race, creed, color, national origin, sexual orientation, military status, sex, disability, predisposing genetic characteristics, marital status).

 X

New York City Human Rights Law, N.Y. City Admin. Code §§ 8-101 to 131 (actual or perceived age, race, creed, color, national origin, gender, disability, marital status, partnership status, sexual orientation, alienage, citizenship status).

I. Parties in this complaint:

A. List your name, address and telephone number. Do the same for any additional plaintiffs named. Attach additional sheets of paper as necessary.

Plaintiff	Name	<u>Deirdre C. Johnson</u>
	Street Address	<u>154 Oak Street</u>
	County, City	<u>Suffolk County, Patchogue</u>
	State & Zip Code	<u>NY 11772-2833</u>
	Telephone Number	<u>347-510-8389 voicemail:</u>
		<u>516-286-1238 cell</u>

B. List all defendants' names and the address where each defendant may be served. Make sure that the defendant(s) listed below are identical to those contained in the above caption. Attach additional sheets of paper as necessary.

Defendant(s) Please see attached addendum - page 5

The address at which I was employed by the defendant(s) :

Site Location	<u>Arthur Ashe Stadium, Fire Command</u>
Street Address	<u>122-02 Roosevelt Avenue</u>
County, City	<u>Queens County, Flushing</u>
State & Zip Code	<u>NY 11368</u>
Telephone Number	<u>718-760-6266</u>

II. Statement of Claim:

State as briefly as possible the facts of your case, including relevant dates and events. Describe how you were discriminated against. If you are pursuing claims under other federal or state statutes, you should include facts to support those claims. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. Attach additional sheets of paper as necessary.

A. The discriminatory conduct of which I complain in this action includes: *(check only those that apply)*

- ☐ Failure to hire me.
- ☒ Termination of my employment.
- ☒ Failure to promote me.
- ☐ Failure to accommodate my disability.
- ☒ Unequal terms and conditions of my employment.
- ☒ Retaliation.

X Other acts (specify): Purposeful Harassment *

Note: Only those grounds raised in the charge filed with the Equal Employment Opportunity Commission can be considered by the federal district court under the federal employment discrimination statutes.

B. It is my best recollection that the alleged discriminatory acts occurred on: 9/10 to 6/11. Date(s)

C. I believe that defendant(s) (check one):

 is still committing these acts against me.

 X is not still committing these acts against me.

D. Defendant(s) discriminated against me based on my (check only those that apply and explain):

☒ race Asian/Pacific Islander ☐ color

Purposeful Harassment ☒ gender/sex Female ☐ religion

☐ national origin

☒ age. My date of birth is 4th October 1961

(Give your date of birth only if you are asserting a claim of age discrimination.)

☐ disability or perceived disability, _____ (specify)

E. The facts of my case are as follow (attach additional sheets as necessary):

For the facts of my case please refer to the addendum pages 6 through 8.

Note: As additional support for the facts of your claim, you may attach to this complaint a copy of your charge filed with the Equal Employment Opportunity Commission, the New York State Division of Human Rights or the New York City Commission on Human Rights.

III. Exhaustion of Federal Administrative Remedies:

It is my best recollection that I filed a charge with the Equal Employment Opportunity Commission or my Equal Employment Opportunity counselor regarding defendant's alleged discriminatory conduct on: 18th October 2011 (Date).

B. The Equal Employment Opportunity Commission (*check one*):

_____ has not issued a Notice of Right to Sue letter.
 X issued a Notice of Right to Sue letter, which I received on 24th May 2012 (*Date*).

Note: Attach a copy of the Notice of Right to Sue letter from the Equal Employment Opportunity Commission to this complaint. C.

Only litigants alleging age discrimination must answer this Question.

Since filing my charge of age discrimination with the Equal Employment Opportunity Commission regarding defendant's alleged discriminatory conduct (*check one*):

 X 60 days or more have elapsed.
_____ less than 60 days have elapsed.


IV. Relief:

WHEREFORE, plaintiff prays that the Court grant such relief as may be appropriate, including injunctive orders, damages, trial-related costs incurred and applicable fees including those of consulting attorneys'. The Defendants have defamed the integrity of the plaintiff not only impeding her earning potential but causing her to endure severe hardship adversely affecting her credit and health. Therefore the declaratory relief sought is eighty thousand dollars; and, the compensatory and punitive relief sought is eight hundred thousand dollars. (*Describe relief sought, including amount of damages, if any, and the basis for such relief.*)

I declare under penalty of perjury that the foregoing is true and correct.

Signed this 1st day of November, 2013.

Signature of Plaintiff
Address

_____

154 Oak Street

Patchogue, NY 11772-2833

E-mail: dcjohnso@suffolk.lib.ny.us

Telephone Number

347-510-8389 voicemail, 516-286-1238 cell

ADDENDUM

RE: Section I.B. Page 2 - Names and Addresses of Defendants

Andy Frain Services, Inc.
761 Shoreland Dr.
DuPage County, Aurora
IL 60504
(630) 820-3820

Dane DeSouza, Edmond Quick, Robert DeCosta
Andy Frain Services, Inc.
2090 Adam Clayton Powell Jr. Blvd.
New York, New York
NY 10027
(212) 222-8755, 8843

Dane Vontobel V.P. Business Development/Minority Owner
Andy Frain Services, Inc.
3 Drummers Lane
Fairfield County, Newtown
CT 06470
(230) 270-9278

Staffing Concepts, Inc. (SCI)
c/o 4224 West Henderson Boulevard
Hillsborough County, Tampa
FL 33629-5611
(813) 259-2201

RE: Section II E. Page 3 - Statement of Claim

1. I was employed as a Fire Guard/Security Guard at USTA's Billie Jean King National Tennis Center in Queens from September 23rd, 2010 through June 23rd, 2011 by Andy Frain Services.
2. At USTA's Billie Jean King National Tennis Center, two Fire Guard Certificate of Fitnesses F94 and S95, as well as a valid NY State Security Guard license are required; all of which I possessed.
3. I was employed at the pay rate of ten dollars an hour verified by the paperwork signed by Dane DeSouza.
4. I received the inaccurate pay rate of nine dollars and fifty cents an hour.
5. My pay checks were continually sent to a different site causing great inconvenience to me.
6. I initially complained on and around September 2010 about the incorrect rate of pay.
7. I initially complained on and around September 2010 about not receiving my checks at the proper job site.
8. Edmond Quick, Managing Supervisor, and Dane DeSouza, Area Manager were responsible for the payroll.
9. I continued to complain to Dane DeSouza and Edmond Quick about the payroll issues.
10. On or around April 2011, I finally received my correct pay rate of ten dollars an hour.
11. On or around February 2011 I was informed by Dane DeSouza that my Security License needed to be renewed.
12. On or around February 2011, during the time of renewing my license, I asked Dane DeSouza if I could work in the Andy Frain Offices at Adam Clayton Powell Jr, Blvd.
13. On or around May 2011, Emeris Lacen complained to Dane DeSouza that Hartley White was showing favoritism to me by giving me his shifts when he was on vacation.
14. On or around May 23rd, 2010 I was informed by Hartley White that Dane DeSouza wanted to fire me and had made harassing remarks about me.

15. I promptly dismissed these remarks as lack of professionalism on the part of Mr. DeSouza.
16. It was not until later that I realized that Mr. DeSouza was Purposely Harassing me.
17. On June 23rd, 2010, I received a phone call from Edmond Quick, Managing Supervisor for the Defendant in charge of P/R time sheets, telling me that I was NOT on a list made by the Client, therefore I should not return to USTA'S Billie Jean King National Tennis Center.
18. I immediately sent an e-mail message to Dane DeSouza, Regional Manager for the NYC area but did not receive an immediate reply.
19. The reply I received eventually included the word "termination" and stated there *was no list* from the Client.
20. *No other* reason was given for why I was not to return to USTA.
21. While waiting for a response from Mr. DeSouza, I had sent an e-mail message to Dane Vontobel, a VP for the Defendant who was one of the people who set up the account with the Client. He did not reply at all. Andy Frain Services, Inc. had sufficient time to respond and explain their Employee Handbook policies to me regarding my termination and did not.
22. In September 2011, I received a phone call asking if I could help out at Stony Brook which surprised me because Mr. DeSouza used the phrase "your termination" in his e-mail reply.
23. I filled out a complaint at EEOC on September 12th, 2011.
24. Dane DeSouza was fired October 31st, 2011.
25. I received my Right-to-Sue letter from the EEOC. In August 2012, I filed a Complaint with the Eastern District.
26. I received no response from V.P. Dane Vontobel to verify why I was not to report to the site.
27. I had the certifications required for the USTA Billie Jean King National Tennis Center. Emeris Lacen did not.
28. Ms. Lacen is younger than I am and Hispanic/Black. The other guards employed by Andy Frain at the site during the time I was there were younger than I am, except Hartley C. White.

29. The letter from Staffing Concepts' (SCI's) in-house counsel swayed the decision of the EEOC.
30. The EEOC redacted information that would prove my claim of discrimination.
31. Mr. Robert DeCosta's Affidavit for the EEOC states information which is not true.
32. SCI's in-house attorneys are listed on the Insurance Policy as being the Insured Party.
33. According to EEOC Notice Number 915.002 dated 6/18/99 from the EEOC website, "An employer is always liable for harassment by a supervisor on a prohibited basis that culminates in a tangible employment action."

NEW YORK DISTRICT OFFICE

eid # 6
55 West 42nd Street
8th Floor
New York, NY 10004
(212) 336-3620
TDD: 1-800-669-8820
Fax: (212) 336-3625
1-800-669-4000

Respondent: SCHWANDY FRAIN SERVICES INC-C
EEOC Charge No.: 520-2011-03465 (Amended)
FEPA Charge No.:

April 10, 2012

Deldre Johnson
P.O. Box 1275
Patchogue, NY 11772

Dear Ms. Johnson:

This is to acknowledge receipt of the above-numbered amended charge of employment discrimination against the above-named respondent. Please use the "EEOC Charge No." listed above whenever you call us about this charge. The information provided indicates that the charge is subject to:

- ☒ Title VII of the Civil Rights Act of 1964 (Title VII)
- ☒ The Age Discrimination in Employment Act (ADEA)
- ☐ The Americans with Disabilities Act (ADA)
- ☐ The Equal Pay Act (EPA)
- ☐ The Genetic Information Nondiscrimination Act (GINA)

You need do nothing further at this time. We will contact you when we need more information or assistance. A copy of the charge or notice of the charge will be sent to the respondent within 10 days of our receipt of the charge as required by our procedures.

Please be aware that we will send a copy of the charge to New York State Division Of Human Rights Federal Contract Unit One Fordham Plaza, 4 Fl. Bronx, NY 10458 as required by our procedures. If the charge is processed by that agency, it may require the charge to be signed before a notary public or an agency official. Then the agency will investigate and resolve the charge under their statute. If this occurs, section 1601.76 of EEOC's regulations entitles you to ask us to perform a Substantial Weight Review of the agency's final finding. To obtain this review, a written request must be made to this office within 15 days of receipt of the agency's final finding in the case. Otherwise, we will generally adopt the agency's finding as EEOC's.

While your charge is pending, please notify us of any change in your address, or where you can be reached if you have any prolonged absence from home. Your cooperation in this matter is essential.

Sincerely,

ALK
Amron L. Kinsey, Jr.
Investigator
(212) 336-3680

Office Hours: Monday – Friday, 8:30 a.m. - 5:00 p.m.
www.eeoc.gov

Enclosure(s)

CHARGE OF DISCRIMINATION			CHARGE PREPARED BY New York State Division of Human Rights and EEOC
New York State Division of Human Rights <small>State or local Agency, if any</small>			820-2011-03466
Name (include Mr., Mrs., etc.) Deirdre Johnson	Home Phone (incl. Area Code) (516) 290-1238	Date of Birth 10-04-1961	
Street Address P.O. Box 1275, Patchogue, NY 11772			
Named in the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)			
Name SCUANDY FRAIN SERVICES, INC-C	No. Employees, Members 500 or More	Phone No. (include Area Code)	
Street Address 2000 Adam Clayton Powell Blvd, Ste. 600, New York, NY 10027			
Name	No. Employees, Members	Phone No. (include Area Code)	
Street Address 			
DISCRIMINATION BASED ON (Check appropriate box(es)) <input checked="" type="checkbox"/> RACE <input type="checkbox"/> COLOR <input type="checkbox"/> SEX <input type="checkbox"/> RELIGION <input checked="" type="checkbox"/> NATIONAL ORIGIN <input type="checkbox"/> RETALIATION <input checked="" type="checkbox"/> AGE <input type="checkbox"/> DISABILITY <input type="checkbox"/> GENETIC INFORMATION <input type="checkbox"/> OTHER (Specify)		DATE(S) DISCRIMINATION TOOK PLACE Onset: _____ Latest: 06-23-2010 <input type="checkbox"/> CONTINUING ACTION	
THE PARTICULARS ARE (If additional paper is needed, attach extra sheets): <div style="text-align: center; padding: 20px;"> SEE ATTACHED STATEMENT </div>			
I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.		NOTARY - Not necessary for State and Local Agency Requirements 	
I declare under penalty of perjury that the above is true and correct.		I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.	
Signature of Charging Party Date <u>10/18/2011</u>		SIGNATURE OF COMPLAINANT SUBSCRIBE AND SWORN TO BEFORE ME THIS DATE (month, day, year) Oct 18, 2011	

JEAN E. DELANEY
 NOTARY PUBLIC IN THE STATE OF NEW YORK
 COUNTY OF SUFFOLK

My name is Deirdre Johnson. I believe that I was discriminated against because of my race and national origin (Pacific Islander) in violation of Title VII of the Civil Rights Act of 1964, as amended ("Title VII") and age in violation of the Age Discrimination in Employment Act ("ADEA") by my employer, Andy Frain Services, Inc. (hereinafter referred to as "Respondent").

I was employed by Respondent from October 30, 2010 until June 23, 2011 as a Fire Guard.

On May 23, 2011, Mr. De Souza, the Regional Manager in charge of the New York District spoke to Hartley White and told him that he wanted to fire me.

A couple of hours before my shift on June 23, 2011, Mr. Quick called and told me that I was not on the client's list and to not come in for my shift. After that, I was taken off the schedule.

When I questioned Mr. DeSouza about this, he told me that there was no written client list.

I have not been on the schedule since June 23, 2011. I believe that I was removed from the Fire Command schedule because of my race. Emeris Laoen, who is Black, was not removed from the schedule even though the USTA had kicked her out in December 2008 after stealing property (eating food) from the client's food service provider Levy on camera.

In addition, Emeris Laoen is approximately 35 years old and much younger than me. I also believe that she does not have the proper Fire Guard certifications (S95 and F00) for the job. Based on the above, I believe that I was discriminated against because of my race in violation of Title VII and age in violation of the ADEA.

I affirm that the above statement is true to the best of my knowledge, information and belief.

Deirdre Johnson
Deirdre Johnson

Subscribed and sworn to before me on this date:
(month, day, year)

18th October 2011
Date

J. E. Sullivan

Oct 18, 2011

JEAN E SULLIVAN
NOTARY PUBLIC STATE OF NEW YORK
NO. 074800187
QUALIFIED IN MARSHALL COUNTY
COMMISSION EXPIRES 01/01/2014

U.S. District Court
District of New York
For General Information: (800) 669-4000
TTY: (800) 669-6829
District Office: (212) 336-3630
General FAX: (212) 336-3625

Diedre Johnson
P.O. Box 1275
Patchogue, NY 11772

Re: EEOC Charge No. 520-2011-03468
Johnson v. SCI/Andy Frain Services, Inc.

Dear Ms. Johnson:

The Equal Employment Opportunity Commission (hereinafter referred to as the "Commission") has reviewed the above-referenced charge according to our charge prioritization procedures. These procedures, which are based on a reallocation of the Commission's staff resources, apply to all open charges in our inventory and call for us to focus our limited resources on those cases that are most likely to result in findings of violations of the laws we enforce.

In accordance with these procedures, we have examined your charge based upon the information and evidence you submitted. You allege you were discriminated against because of your race, sex, national origin and age.

Respondent's position statement has been previously shared with you. Your rebuttal to this position statement has been received and analyzed. Based upon this analysis the Commission is unable to conclude that the information establishes a violation of Federal law on the part of Respondent. This does not certify that Respondent is in compliance with the statutes. No finding is made as to any other issue that might be construed as having been raised by this charge.

The Commission's processing of this charge has been concluded. Included with this letter is your Notice of Dismissal and Right to Sue. Following this dismissal, you may only pursue this matter by filing suit against the Respondent named in the charge within 90 days of receipt of said notice. Otherwise, your right to sue will be lost.

Please contact Investigator Amon Kinsey at (212) 336-3680 if you have any questions.

Sincerely,


Kevin J. Berry
District Director

5/24/12
Date

To: **Case 1:12-cv-04454-WFK-VVP Document 37 Filed 11/20/13 Page 14 of 14 PageID #: 425**
 Debra Johnson
 P.O. Box 1278
 Patchogue, NY 11772

From: **Case 1:12-cv-04454-WFK-VVP Document 37 Filed 11/20/13 Page 14 of 14 PageID #: 425**
 New York District Office
 33 Whitehall Street
 8th Floor
 New York, NY 10004



On behalf of person(s) aggrieved whose identity is
CONFIDENTIAL (21 CFR §1901.7(b))

EEOC Charge No.	EEOC Representative	Telephone No.
636-2011-93465	Armon L. Kinsey, Jr., Investigator	(212) 336-3686

THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:

- ☐ The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.
- ☐ Your allegations did not involve a disability as defined by the Americans With Disabilities Act.
- ☐ The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.
- ☐ Your charge was not timely filed with EEOC; in other words, you waited too long after the date(s) of the alleged discrimination to file your charge.
- ☒ The EEOC issues the following determination: Based upon its investigation, the EEOC is unable to conclude that the information obtained establishes violations of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this charge.
- ☐ The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.
- ☐ Other (briefly state)

- NOTICE OF SUIT RIGHTS -

(See the additional information attached to this form.)

Title VII, the Americans with Disabilities Act, the Genetic Information Nondiscrimination Act, or the Age Discrimination in Employment Act: This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit must be filed WITHIN 90 DAYS of your receipt of this notice; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

Equal Pay Act (EPA): EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.

Enclosure(s)

On behalf of the Commission

Kevin J. Berry
 Kevin J. Berry
 District Director

3/24/12
 (Date Mailed)

cc: **SCVANDY FRAM SERVICES INC.**
 c/o William Edwards, Esq.
 DOMINGUEZ & EDWARDS P.A.
 4324 Henderson Blvd
 Tampa, FL 33629